

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEELCASE, INC. a Michigan
corporation,

Plaintiff,

Case No.: 1:04cv0026
Hon. Robert Holmes Bell
Chief, U. S. District Judge

v

HARBIN'S INC., an Alabama
corporation, MICHAEL G. HARBIN
and HOPE D. HARBIN PATTERSON (now
HOPE DUNCAN PATTERSON),

Defendants.

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CUMMISKEY, P. L. C.
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**DEFENDANT MICHAEL G. HARBIN'S
BRIEF IN SUPPORT OF MOTION FOR CONTINUANCE OF TRIAL**

1.0 INTRODUCTION

Defendant Michael G. Harbin ("Harbin") has filed a motion for the continuance of the trial in this matter scheduled to commence on September 26, 2005. Local Civil Rule 40.2 requires that Harbin show good cause for this request.

Harbin is a resident of Santa Rosa, Florida. In order for him to consult with his counsel in preparation for trial he must travel to Kalamazoo, Michigan. Inasmuch as counsel will not be available to consult with him between September 20 - 24, 2005, he would have to either make two trips to Kalamazoo, or spend at least a week in Kalamazoo. This would present a hardship to Harbin in terms of travel costs and loss of time from his employment.

Defense counsel has another trial scheduled to commence on September 27, 2005, in the Kalamazoo County 9th Circuit Court (Chicago Title Ins. Co. v Oakland Ridge Estates Partnership, File No.: C03-000195-CZ), as explained in his motion for continuance. Inasmuch as defense counsel will be out of town and unavailable to work on this case between September 20 - 24, 2005, and the upcoming trial scheduled for September 27, 2005, he will not have adequate time to meet with Harbin and his witnesses, and prepare for the trial of this case as well.

Local Civil Rule 40.2 also requires a motion for continuance be brought as soon as the need arises. Harbin was prepared to go to trial on August 22, 2005. However, on the afternoon of August 8, 2005, Harbin and defense counsel learned that the trial would be adjourned to September 26, 2005. After reviewing his calendar defense counsel realized immediately that he would not have sufficient time to prepare two substantial cases for trial on consecutive days especially in light of the fact that he would be out of town and unavailable for most of the week preceding the first scheduled trial. Harbin's motion for continuance is being filed on August 12, 2005, and is based on the attached affidavit of counsel. Harbin believes that good cause for a continuance has been demonstrated and that this motion has been brought as soon as the need arose.

2.0 RELIEF REQUESTED

Harbin requests this Court enter its order continuing the trial in this matter from September 26, 2005, until a date to be set by the Court after October 31, 2005.

Dated: August 12, 2005

SILVERMAN, SMITH & RICE, P.C.
Attorneys for Defendant Michael G. Harbin

/s/ Robert W. Smith
Robert W. Smith (P31192)